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Director
Operations 3
Anti-Dumping Commission
Level 35, 55 Collins Street
Melbourne Victoria 3000

Email: operations3@adcommission.gov.au

For Public File

Dear Sir/Madam

Review Investigation No. 368 – Submission on behalf of CITIC Australia Steel Products Pty Ltd

I. Introduction

I refer to the submission of 15 March 2017 on behalf of CITIC Australia Steel products Pty Ltd (“CITIC”) asserting that the treatment of CITIC’s domestic selling prices for the purposes of the Statement of Essential Facts (“SEF”). It is argued that:

“...rejecting CITIC’s prices.....are...contrary to the letter and spirit of Australia’s anti-dumping legislation, would be inconsistent with the treatment of the same transactions under other parts of the legislation, including the duty assessment process and the duty absorption provisions in the anti-circumvention rules, and finally, would be commercially inconsistent with....a non-injurious price for Yieh Phui Enterprise Co Ltd”.

BlueScope Steel Limited (“BlueScope”) rejects the claims that the Anti-Dumping Commission (“the Commission”) has incorrectly determined export prices for goods purchased by CITIC from Yieh Phui Enterprise Co Ltd (“Yieh Phui”) during the investigation period.

II. Findings in SEF

Section 4.5.2 of the SEF confirmed that in respect of export sales from Yieh Phui to CITIC, it was determined that the goods:

- Have been exported to Australia otherwise than by the importer;
- Were sold through an intermediary, therefore have not been purchased by the importer from the exporter;
- The purchases of the goods by the importer were not arms length transactions because the goods were sold at substantial losses by CITIC and that those losses are not recoverable within a reasonable period of time; and
- The goods were sold by the importer in the condition in which they were imported, to a person who is not an associate of the importer.

III. CITIC Importer Verification Report

The CITIC importer verification report provided an earlier indication that the Commission had determined from the 26 sales transactions from 12 selected shipments made were sold by CITIC at a loss. The report further indicated that the sales at a loss “*could be treated as indicating that the importer will directly or indirectly be reimbursed, be compensated or otherwise receive a benefit for whole or any part of the price*”¹ in accordance with s.269TAA(2) of the *Customs Act*.

IV. Dumping and Subsidy Manual

The Dumping and Subsidy Manual at Section 5.3 addresses the Commission’s practice involving sales at a loss by the importer. The commentary of Section 5.3 is reflected in the Commission’s statements in SEF and the CITIC importer verification report that “*sales at a loss are an indicator only that the buyer may have been reimbursed, compensated or otherwise provided with a benefit.*” If the sales have been made at a loss (as is the case with sales of the imported goods by CITIC), the Commission will consider whether the losses may be recovered within a reasonable period of time (typically over a twelve-month period).

V. Conclusions

The Commission has determined that the sales of imported galvanised steel exported by Yieh Phui were sold at a loss during the investigation period. It was further assessed by the Commission that the sales at a loss were not recoverable within a reasonable period of time and the the losses were “substantial”.

The Commission has correctly assessed the relevant export sales by Yieh Phui under s.269TAB(1)(c) based upon a deductive export price methodology which takes account of the selling price by CITIC to its customers in Australia less deductions for all costs incurred that are associated with the exportation and resale (including profit) of the goods sold by CITIC.

The claims that the Commission’s determination of sales by CITIC at a loss are not “to the letter and spirit of Australia’s anti-dumping legislation” is not borne out by an examination of the relevant legislative provisions and guidance within the Dumping and Subsidy Manual. For these reasons, the claims made on behalf of CITIC must fail.

If you have any questions concerning this submission, please do not hesitate to contact me on (02) 4275 3859 or BlueScope’s representative Mr John O’Connor on (07) 3342 1921.

Yours faithfully



Alan Gibbs
Development Manager – International Trade Affairs

¹ Refer CITIC Australia Steel products Pty Ltd importer verification report at P. 6.